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Money manager arrested for defrauding hockey players of \$15 million

BY KATIE BENNER

November 14, 2013 3:13 PM



Bryan Berard

FORTUNE — An indictment against financial advisor Phil Kenner for wire fraud and money laundering in connection with several alleged investment scams was unsealed in Brooklyn federal court Wednesday following a more than four-year government investigation. Kenner, 43, and his business partner Tommy Constantine, 47, were arrested by the FBI and charged with fleecing Kenner's clients to the tune of more than \$15 million.

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The government alleges that Kenner and Constantine conned at least 13 professional hockey players into investing in a prepaid credit card company, a real estate development in Hawaii, and an escrow account for legal expenses related to Mexican land deals; but then secretly spent the money on personal expenses, covert real estate deals, and secret investments. (The government's press release announcing the indictment can be found [here](#).)



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Attempts to reach Kenner for comment were unsuccessful. By email, Constantine's lawyer Ed Little says it's "shocking" that an FBI case agent, who he didn't name, "somehow induced" the Eastern District to bring an indictment. He adds, "we look forward to an acquittal in court." Ron Richards, the lawyer who was once in charge of the escrow account for the Mexican legal fund, did not respond to a request for

comment. *Fortune* previously [investigated many of the allegations in this case](#) and in that article both Kenner and Constantine denied any wrongdoing.

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The case is filled with baroque twists and turns. The government started investigating the two men after Kenner's then-clients — including current and former stars such as Bryan Berard, Sergei Gonchar, and Michael Peca — sued real estate developer Ken Jowdy in 2009, claiming he stole their money in a deal involving Mexican golf courses, hotels, and condos. A probe of Jowdy soon turned into an investigation of Kenner, and the FBI began looking at whether the Jowdy suit was filed simply to cover up a decade's worth of criminal activity.

Phil Kenner was a high school hockey star in Buffalo, N.Y., and a benchwarmer at Rensselaer Polytechnic Institute. In college he befriended Joe Juneau, who went on to become an NHL player for more than a decade. After graduation Kenner met several pro hockey clients through his college pal. For his part, Constantine was a former race car driver, once sponsored by Playboy, and a convicted drug dealer.

Kenner can be charming and chipper, but can also turn menacing, according to former clients and friends. He threatened to tell one client's wife unsavory secrets when pressed for deal documents. "Just make sure [your wife] is also prepared," Kenner wrote in an email obtained by *Fortune*. "No more sugar coating things since everyone wants to be 'big boys'!!" When Kenner felt a former business partner betrayed him, he wrote in a text message, "You need to call me today, say your [sic] sorry that other people are beating you down, and you want my forgiveness ... Otherwise, & HEAR ME CLEARLY, YOU [have been beaten] ... not me!!"

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After his father died, Kenner told friends that he sold the contents of his childhood home and forced his stepmother to buy back many of her belongings at auction, according to two of those friends and the stepmother, Nancy Kenner. (When *Fortune* asked about the incident previously, Kenner confirmed that he sold many items after his father's death but declined to say more.)



Constantine was trying to make up for his youthful errors and run a legitimate prepaid credit card business, his lawyer, Little, previously told *Fortune*. Constantine also seemed to worry that Kenner would get him into trouble. In an argument with Kenner at a local Home Depot several years ago (a conversation that Kenner recorded and which was obtained by several hockey players) Constantine said, “You and I were in the trenches together, and now we’re fighting each other and talking shit about each other? ... They’re not going to fucking pinch the guy who drove the getaway car, they’re going to pinch the guy that fucking robbed the bank. I know you think I robbed the bank, but I have answers for everything.”

Kenner was involved in several lawsuits over the years, battling former clients, an ex-employee, former business partners including Constantine, and even an ex-girlfriend, whom he sued over \$2,800 in family court.



Tommy
Constantine,
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Kenner settled or defeated these claims and touted these results as evidence of his innocence. Still, the volume and murkiness of his various legal imbroglios made it sometimes difficult to ascertain what was fact and what was fiction. He told *Fortune* that he sued his former firm Assante for defrauding clients and then quit. In actuality, the company, which split up in 2004, was the rare financial firm to not be sued, according to FINRA records. And former employees says Assante parted ways with

Kenner after they grew uncomfortable with the real estate investments he wanted to make with client money.

But now one thing is certain for Kenner: This latest action brought by the government is very real, and it will be the toughest legal battle he has fought so far.



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